

ASSEMBLY BILL

No. 996

Introduced by Assembly Member Dickinson

February 22, 2013

An act to amend Sections 43100, 47000, 47001, 47002, 47010, 47011, and 47021 of, to add Sections 47000.5, 47001.2, 47001.5, 47014, 47020.5, and 47055 to, to add Chapter 9 (commencing with Section 890) to Part 1 of Division 1 of, to add and repeal Section 47021.5 of, to repeal Section 47004.1 of, to repeal Article 2 (commencing with Section 47010) of Chapter 10.5 of Division 17 of, and to repeal and add Sections 47004 and 47020 of, the Food and Agricultural Code, relating to food and agriculture, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 996, as introduced, Dickinson. Agricultural products: direct marketing: certified farmers' markets.

(1) Existing law authorizes the use of the term "California grown" and similar terms for marketing, advertising, or promotional purposes only to identify food or agricultural products that have been produced in the state or harvested in its surface or coastal waters, and makes the fraudulent use of the term or a deliberately misleading or unwarranted use of the term a misdemeanor punishable by a fine of not less than \$100 or more than \$3,000, or by imprisonment in the county jail for not more than 6 months, or by both the fine and imprisonment.

This bill would make it unlawful for any person or entity to intentionally make any statement, representation, or assertion relating to the sale or availability of agricultural products that is false, deceptive, or misleading, as specified, and would make a violation of those provisions a misdemeanor punishable by imprisonment in the county

jail not exceeding 6 months, by a fine not exceeding \$2,500, or both the fine and imprisonment. By creating a new crime, the bill would impose a state-mandated local program.

The bill would also authorize the Secretary of Food and Agriculture or a county agricultural commissioner, in lieu of prosecution, to levy a civil penalty, as specified, or take action against a license, permit, registration, or certification issued pursuant to the Food and Agricultural Code. The bill would make those penalties applicable to the fraudulent use of the term “California grown,” as specified above. The bill would require the civil penalties collected by a county agricultural commissioner to be paid to the county treasurer, and would require civil penalties collected by the secretary to be deposited in the Department of Food and Agriculture Fund as continuously appropriated funds to be used to conduct investigations and enforcement actions relating to false, deceptive, or misleading statements relating to agricultural products, and for other specified purposes. By establishing a continuously appropriated fund, the bill would make an appropriation.

(2) Existing law regulates direct marketing of agricultural products, and provides for various findings and declaration in that regard. Existing law authorizes the Secretary of Food and Agriculture to adopt regulations relating to the direct marketing of agricultural products, authorizes a county agricultural commissioner to issue a certified farmers’ market certificate, and requires the county agricultural commissioner to inspect certified farmers’ markets within his or her jurisdiction. Existing law authorizes a county agricultural commissioner to charge certification and inspection fees, and provides for the assessment of penalties and fines relating to the certification, inspection, and regulation of certified farmers’ markets. These fees and penalties are deposited in the Department of Food and Agriculture Fund, and are required to be used, upon appropriation by the Legislature, for related administrative and regulatory purposes.

This bill would define the terms “producer” and “agricultural product” for purposes of the provisions relating to direct marketing. The bill would authorize the secretary to contract with any county agricultural commissioner’s office for purposes relating to direct marketing of agricultural products, and would authorize compensation to be paid under those contracts from funds derived from assessments and fees collected pursuant to the provisions relating to direct marketing. The bill would authorize a certified farmers’ market operator to contract

with a county agricultural commissioner's office for verification inspections, as specified.

(3) Existing law provides for the issuance of a certified producer's certificate by a county agricultural commission, and authorizes the county agricultural commission to charge a certificate and inspection fee, to be deposited into the Food and Agriculture Fund, as specified.

This bill would authorize the secretary to establish a domestic direct marketing advisory committee to, among other things, assist the department in reviewing regulations affecting, and advise the secretary in matters relating to, the domestic direct marketing of California-produced agricultural products. The bill would require direct marketing producers to register with the Department of Food and Agriculture and attest compliance with applicable laws and regulations, as specified, would impose a registration fee of \$25 to be deposited in the Department of Food and Agriculture Fund and used by the department for related administrative purposes.

(4) Existing law specifies that certified farmers' markets are locations established in accordance with local ordinances, and requires the governing board of a certified farmers' market with more than one participating certified producer to adopt written rules and procedures pertaining to the operation of the certified farmers' market.

This bill would instead provide that certified farmers' markets are California agricultural product outlets that are registered and operated in accordance with specified provisions. The bill would require vendors of agricultural products selling within a certified farmers' market to comply with specified signage and labeling requirements, and would make those representations subject to criminal, civil, and administrative penalties, as specified above. By creating a new crime, the bill would impose a state-mandated local program. The bill would repeal provisions authorizing an aggrieved certified producer to submit a request to the department for an advisory opinion, and for the department to issue the advisory opinion, and would repeal provisions requiring the department to provide for an informal hearing process for grievances relating to certified farmers' markets.

(5) Existing law requires the secretary to establish a certified farmers' market advisory committee.

This bill would authorize, but not require, the secretary to establish that committee, and would specifically limit the duties of that committee to matters relating to certified farmers' markets, as specified. The bill

would repeal the provision relating to the certified farmers' market advisory committee on January 1, 2015.

(6) Existing law requires a certified farmers' market certificate to be obtained from a county agricultural commissioner, and authorizes the county agricultural commissioner to assess a fee for the certificate and for inspections, as specified.

This bill would repeal those provisions and instead would require an operator of a certified farmers' market to annually register with the department, and would require the county agricultural commissioner to issue a certified farmers' market certificate upon registration. The bill would require registered direct marketing producers to register with the department and obtain certified producer's certificates. The bill would require certified producers to submit specified information to the department, including a list of facilities at which their product was processed, as specified, and would require each operator of a certified farmers' market to remit to the department an investigation and enforcement fee based on the number of individual agricultural product vendors whose products were presented for sale on each market day for the previous quarter, as specified. The bill would repeal those provisions relating to remitting an investigation and enforcement fee on January 1, 2016.

(7) Existing law requires, until January 1, 2014, that every operator of a certified farmers' market remit to the department a fee equal to the number of certified producer certificates and other agricultural producers participating on each market day for the entire previous quarter, which shall be used by the department upon appropriation by the Legislature, as specified.

This bill would instead require, until January 1, 2016, a program fee equal to the number of agricultural product vendors participating and selling goods under the authority and management of the certified farmers' market operator on each market day for the entire previous quarter to be remitted to the department.

(8) The bill would provide for the establishment of direct marketing producer associations, and would authorize a direct marketing producer association to sell California agricultural products to members of the public, subject to specified provisions. The bill would require the source of those products to be clearly identified and would make a violation of those provisions a crime, as specified. The bill would require a direct marketing producer association to annually register with the department and pay a registration fee, to be deposited into the Department of Food

and Agriculture Fund, and used for the administration and enforcement of those provisions. The bill would regulate certified producer consignment sales agreements, as defined, would require those agreements to be annually registered with the department, and would impose a \$50 registration fee, to be deposited in the Department of Food and Agriculture Fund for administration of the provisions relating to certified producer consignment sales agreements.

(9) Because the bill would create new crimes, and by imposing new requirements on county agricultural commissioners, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 9 (commencing with Section 890) is
2 added to Part 1 of Division 1 of the Food and Agricultural Code,
3 to read:

4
5 CHAPTER 9. INTENTIONALLY FALSE, DECEPTIVE, OR
6 MISLEADING MARKETING

7
8 890. (a) It is unlawful for any person or entity to intentionally
9 make any statement, representation, or assertion orally, by public
10 statement, advertisement, or signage, or by any other means that
11 relates to the sale or availability of agricultural products that is
12 false, deceptive, or misleading regarding any of the following:

- 13 (1) The area of production of the agricultural product.
- 14 (2) The identity of the producer of the agricultural product.
- 15 (3) The manner and method of production of the agricultural
16 product.

1 (b) A violation of the provisions of this section is a misdemeanor
2 punishable by imprisonment in the county jail not exceeding six
3 months, or by a fine not exceeding two thousand five hundred
4 dollars (\$2,500), or by both that imprisonment and fine.

5 891. In lieu of prosecution, the secretary, or a county
6 agricultural commissioner under the authority of the secretary,
7 may levy a civil penalty against a person or entity that violates this
8 section in an amount not less than five hundred (\$500), nor more
9 than five thousand dollars (\$5,000) for each violation. The amount
10 of the penalty assessed for each violation shall be based upon the
11 scope of the violation, the seriousness of the deception, and the
12 impact of the penalty on the violator, including the deterrent effect
13 on future violations. Subdivision (e) of Section 43003 shall apply
14 to any fine or civil penalty levied pursuant to this section.

15 892. (a) In addition to, or in lieu of, any action taken against
16 a person by the secretary or a county agricultural commissioner
17 under the provisions of Section 890 or 891, the secretary or a
18 county agricultural commissioner may modify, suspend, revoke,
19 or refuse or condition the issuance of a license, permit, registration,
20 or certification issued under the provisions of this code.

21 (b) Any action taken pursuant to this section shall be based upon
22 the scope of the violation, the seriousness of the deception, and
23 the corrective or deterrent effect on future violations.

24 (c) Any action taken pursuant to this section shall be subject to
25 the due process and applicable civil remedy provisions of this code
26 that govern the issuance of the license, permit, registration, or
27 certification.

28 893. (a) All civil penalties collected pursuant to this chapter
29 by the secretary shall be deposited in the Department of Food and
30 Agriculture Fund, and shall be used to conduct investigations and
31 enforcement actions upon complaints filed or pursuant to
32 information received that results in the investigation of a violation
33 of Section 890. Money deposited pursuant to this chapter may also
34 be used to contract with county agricultural commissioners for
35 services that further the purposes of this chapter, and may be used
36 for expenses incurred by county agricultural commissioners for
37 investigative and enforcement actions conducted pursuant to this
38 chapter. Notwithstanding Section 13340 of the Government Code,
39 all money deposited pursuant to this chapter shall be continuously

1 appropriated to the department without regard to fiscal year for
2 purposes of this chapter.

3 (b) All civil penalties collected pursuant to enforcement actions
4 by a county agricultural commissioner under the provisions of this
5 chapter shall be paid to the county treasurer.

6 894. A proceeding brought by the state or a county for an act
7 that violates the provisions of Section 890 shall preclude any
8 concurrent or subsequent proceeding by the state or a county for
9 the same act, or a proceeding brought by a governmental agency
10 under the provisions of Section 17500 of the Business and
11 Professions Code for the same act.

12 SEC. 2. Section 43100 of the Food and Agricultural Code is
13 amended to read:

14 43100. (a) The terms “California grown,” “California-grown,”
15 and similar terms with identical connotations shall be used in the
16 labeling or advertising of agricultural products as follows:

17 (1) The terms “California grown,” “California-grown,” and
18 similar terms with identical connotations may be used for
19 marketing, advertising, or promotional purposes, only to identify
20 food or agricultural products that have been produced in the state
21 or harvested in its surface or coastal waters.

22 (2) ~~The Secretary of Food and Agriculture~~ *secretary* may adopt
23 guidelines, rules, and regulations to further define acceptable uses
24 of the terms “California grown,” “California-grown,” and similar
25 terms with identical connotations, and to prevent any misleading
26 use of the terms.

27 (b) ~~A fraudulent~~ *Any intentionally false, deceptive, or misleading*
28 ~~use of the term~~ *terms* “California-grown” ~~or grown,”~~
29 “California-grown,” *and similar terms with identical connotations,*
30 or of any seals or other identities officially adopted by the
31 ~~Department of Food and Agriculture~~ *department* in connection
32 with these terms, or a deliberately misleading or unwarranted use
33 of these items or terms, ~~is a misdemeanor punishable by a fine of~~
34 ~~not less than one hundred dollars (\$100) or more than three~~
35 ~~thousand dollars (\$3,000), or by imprisonment in the county jail~~
36 ~~for not more than six months, or by both the fine and imprisonment~~
37 *shall be subject to the provisions and penalties set forth in Chapter*
38 *9 (commencing with Section 890) of Part 1 of Division 1.*

39 SEC. 3. Section 47000 of the Food and Agricultural Code is
40 amended to read:

1 47000. The Legislature finds and declares all of the following
2 with regard to the direct marketing of agricultural products:

3 (a) Direct marketing of agricultural products benefits the
4 agricultural community and the consumer by, among other things,
5 providing an alternative method for growers to sell their products
6 while benefiting the consumer by supplying quality produce at
7 reasonable prices.

8 (b) Direct marketing is a good public relations tool for the
9 agricultural industry that brings the farmer face-to-face with
10 consumers *and other end users*.

11 (c) The *direct* marketing potential of a wide variety of
12 California-produced agricultural products should be maximized
13 *and encouraged*.

14 (d) Farm stands allow farmers to sell fresh produce and eggs
15 grown on their farm as well as other food products made with
16 ingredients produced on or near the farm, thus enhancing their
17 income and the local economy.

18 (e) The department should maintain a direct marketing program
19 ~~and the industry should continue to~~ encourage the sale *and*
20 *purchase* of California-grown fresh produce *and other*
21 *California-produced agricultural products*.

22 (f) It is the intent of the state to promote the *purchase and*
23 *consumption* of California-grown produce and to promote access
24 to California-produced agricultural products. Restaurants and
25 nonprofit organizations can provide assistance in bringing
26 California-grown products to all Californians.

27 (g) A regulatory scheme should be developed that provides the
28 flexibility that will make direct marketing a viable marketing
29 system.

30 (h) The department should assist producers in organizing
31 certified farmers' markets, field retail stands, farm stands, and
32 other forms of direct marketing by providing technical advice on
33 marketing methods and in complying with the regulations that
34 affect direct marketing programs.

35 (i) The department is encouraged to establish an ad hoc advisory
36 committee to assist the department in establishing regulations
37 affecting direct marketing of products and to advise the secretary
38 in all matters pertaining to direct marketing.

39 SEC. 4. Section 47000.5 is added to the Food and Agricultural
40 Code, to read:

1 47000.5. The following definitions apply to this chapter, unless
2 otherwise specified:

3 (a) “Agricultural product” means a product produced in
4 California, including fruits, nuts, vegetables, herbs, mushrooms,
5 dairy, shell eggs, honey, flowers, grains, nursery stock, livestock
6 meats, poultry meats, rabbit meats, and fish, including shellfish
7 that is produced under controlled conditions in waters located in
8 California. Products that are characterized as arts, crafts, bakery,
9 candies, soaps, balms, perfumes, cosmetics, clothing, fabrics,
10 pastas, compost, fertilizers, and types of wares are not agricultural
11 products for purposes of this chapter.

12 (b) “Practice of the agricultural arts” means the undertaking of
13 being predominantly responsible for the decisions and actions
14 encompassing the various phases of producing an agricultural
15 product. The practice for fruit, floral, nut, vegetable, and other
16 plant products includes directive or actual responsibility for all the
17 actions of planting, growing, fertilizing, irrigating, cultivating,
18 pest control, and harvesting. The practice for agricultural animal
19 products includes directive or actual responsibility for a substantial
20 time of the raising, feeding, veterinary care, and product harvesting.

21 (c) “Producer” means a person, partnership, corporation, or an
22 otherwise legally formed farm or ranch that produces agricultural
23 products by the practice of the agricultural arts upon land that the
24 person or entity owns, rents, leases, sharecrops, or otherwise
25 controls and has the documented legal right to possession. A person
26 or entity that rents, leases, or otherwise acquires the right to
27 possession of property essentially only for or limited to the period
28 of the harvest season of the agricultural products produced on that
29 property shall not be considered a producer under the provisions
30 of this chapter.

31 SEC. 5. Section 47001 of the Food and Agricultural Code is
32 amended to read:

33 47001. (a) The secretary may adopt regulations to encourage
34 the direct sale by farmers to the public of all types of ~~California~~
35 agricultural products.

36 (b) These regulations may include provisions to ensure and
37 maintain quality and wholesomeness of the products, and to ensure
38 that the selling activities are conducted without fraud, deception,
39 or misrepresentation.

1 (c) *The secretary may contract with any county agricultural*
2 *commissioner to carry out the provisions of this chapter, including*
3 *contracts for administration, investigations, inspections,*
4 *registrations, and assistance pertaining to direct marketing*
5 *producers and outlets. The secretary may enact regulations to*
6 *categorize the contracts and set compensation, fees, and rates for*
7 *each contract. Compensation under the contracts shall be paid*
8 *from assessments and fees collected and deposited under the*
9 *provisions of this chapter.*

10 (d) *A certified farmers' market operator may contract with a*
11 *county agricultural commissioner for a special onsite field or*
12 *storage verification inspection of a direct marketing producer*
13 *selling in a certified farmers' market operated and controlled by*
14 *the operator. A contract for a verification inspection shall be*
15 *authorized only pursuant to a reasonable suspicion of a violation*
16 *of this chapter. All contracts and contract fees are subject to the*
17 *discretion of the county agricultural commissioner in the county*
18 *where the verification inspections are being requested.*

19 SEC. 6. Section 47001.2 is added to the Food and Agricultural
20 Code, to read:

21 47001.2. (a) The secretary may establish an advisory
22 committee, to be known as the domestic direct marketing advisory
23 committee, to assist the department in reviewing regulations
24 affecting the domestic direct marketing of agricultural products
25 and to advise the secretary in matters pertaining to the domestic
26 direct marketing of agricultural products. The committee shall
27 develop ideas, innovations, and funding sources for the safe,
28 effective, efficient, and honest marketing of agricultural products
29 to occur within California, with special attention given to
30 California's underserved and low-income communities, and
31 determine what actions could be taken to encourage the
32 implementation of ideas, innovations, and funding. Members of
33 the committee shall serve without compensation or reimbursement
34 for expenses from the state.

35 (b) The committee may be composed of representatives of
36 organizations that have a significant number of members engaged
37 in the domestic direct marketing of agricultural products,
38 representatives of marketing groups that devote their resources to
39 the marketing and encouragement of consumption of agricultural
40 products by California consumers, individuals whose livelihood

1 is substantially supported by the domestic direct marketing of
2 agricultural products, representatives of other branches of
3 government whose regulations or programs monitor, control, or
4 encourage the consumption of agricultural products, and members
5 of the California consumer public who have demonstrated a special
6 interest in the availability and marketing of agricultural products.
7 The committee shall meet at the discretion or request of the
8 secretary.

9 (c) The committee may appoint officers, including a chairperson,
10 a vice chairperson, a secretary, and any other officers it deems
11 necessary. The committee may adopt rules that it deems necessary
12 to conduct its meetings and functions, and to carry out the
13 objectives of this chapter.

14 (d) The committee shall advise the secretary on matters
15 pertaining to the domestic direct marketing of agricultural products
16 and may make recommendations, including, but not limited to, the
17 amendment, repeal, or adoption of legislation and regulations that
18 relate to the administration and enforcement of this chapter, and
19 the setting and disposition of any fees assessed by the department
20 pursuant to this chapter.

21 SEC. 7. Section 47001.5 is added to the Food and Agricultural
22 Code, to read:

23 47001.5. (a) Every California agricultural producer intending
24 to sell directly to the California public shall annually register with
25 the department as a direct marketing producer. Registration shall
26 include the direct marketing producer's contact information, a
27 general list of agricultural products the direct marketing producer
28 intends to direct market, and the categories of direct marketing
29 methods the direct marketing producer intends to use. Methods
30 and outlets recognized and regulated by this chapter shall be listed.

31 (b) The registration for a direct marketing producer shall include
32 a statement that the person is in compliance with the following:

33 (1) Applicable United States Food and Drug Administration
34 Food Safety Modernization Act (FSMA) mandates and state
35 regulations.

36 (2) The food is obtained from an approved source, as specified
37 under the Health and Safety Code.

38 (c) The annual registration fee for a direct marketing producer
39 shall be twenty-five dollars (\$25). Fees collected shall be deposited
40 in the Department of Food and Agriculture Fund and shall be used

1 exclusively by the department for the administration of this section.
 2 Administration shall include creating and maintaining an online
 3 process and producer data filing system for registration, any
 4 reimbursement for expenses incurred by county agricultural
 5 commissioners for implementing or aiding in the registration
 6 process, or any coordination expenses incurred relative to meetings
 7 and actions of any domestic direct marketing advisory committee
 8 established by the secretary pursuant to Section 47001.2.

9 (d) The annual fee shall be waived when the direct marketing
 10 producer registration is combined with other annual registration
 11 or certification processes where a fee is exacted from the producer
 12 for processing. The registration provisions of this section shall be
 13 complied with regardless of any waiver of fees granted.

14 (e) Nothing in this section supersedes any applicable provision
 15 of any federal or state health and safety law, statute, or regulation.

16 SEC. 8. Section 47002 of the Food and Agricultural Code is
 17 amended to read:

18 47002. California farmers *registered as direct marketing*
 19 *producers in accordance with Section 47001.5* may transport for
 20 sale and sell California-grown fresh fruits, nuts, and vegetables
 21 that they produce, directly to the public, ~~which produce and~~ shall
 22 be exempt from size, standard pack, container, and labeling
 23 requirements, ~~at a certified farmers' market, as defined in Section~~
 24 ~~47004, a field retail stand, as defined in Section 47030, or a farm~~
 25 ~~stand, as defined in Section 47050~~ *an outlet or location operated*
 26 *by an individual, organization, or entity that is regulated under*
 27 *this chapter or is recognized by a regulation adopted pursuant to*
 28 *Section 47001 and is otherwise authorized by local laws, subject*
 29 *to the following conditions:*

30 (a) All fresh fruits, nuts, and vegetables sold shall comply with
 31 the California Code of Regulations governing maturity and quality.

32 (b) No exemption granted by this section supersedes the
 33 provisions of federal marketing orders, state marketing orders, or
 34 any health and safety laws, regulations, or ordinances.

35 (c) All fresh fruits, nuts, and vegetables sold in closed consumer
 36 containers shall be labeled with the name, address, and ZIP Code
 37 of the producer, and a declaration of identity and net quantity of
 38 the commodity in the package.

39 (d) If a farmer selling produce pursuant to this section
 40 implements any exemption to size, standard pack, container, or

1 labeling requirements as provided by this section, those sales may
2 only be conducted as direct sales to the following:

3 (1) Consumers who are end users.

4 (2) Individuals, organizations, or entities that subsequently sell
5 the produce directly to end users.

6 (3) Individuals, organizations, or entities that distribute the
7 produce directly to end users at no cost to those end users.

8 (e) A farmer selling produce under paragraph (2) or (3) of
9 subdivision (d) shall provide the individual, organization, or entity
10 a memorandum that lists the identity of the producer, the address
11 of the producer, and the identity and quantity of the produce
12 purchased. A bill of sale or a container label including this
13 information shall meet the requirements of this subdivision.

14 SEC. 9. Section 47004 of the Food and Agricultural Code is
15 repealed.

16 ~~47004. (a) Certified farmers' markets may establish rules and
17 procedures that are more restrictive or do not violate state law or
18 regulation governing or implementing this chapter.~~

19 ~~(b) Certified farmers' markets are locations established in
20 accordance with local ordinances, where California farmers may
21 transport and sell to the public California agricultural products that
22 they produced, that are exempt from the established grade, size,
23 labeling, packaging and other such requirements for fruits, nuts,
24 and vegetables, and operated in accordance with this chapter and
25 regulations adopted pursuant to this chapter.~~

26 ~~(c) The governing body of any certified farmers' market
27 operating with more than one participating certified producer shall
28 adopt written rules and procedures pertaining to the operation of
29 the market. The rules shall include a requirement that the governing
30 body and its designated agents establish, implement, and enforce
31 all rules and procedures pertaining to the operation of the certified
32 farmers' market in a fair, nondiscriminatory, and equitable manner.~~

33 SEC. 10. Section 47004 is added to the Food and Agricultural
34 Code, to read:

35 47004. (a) Certified farmers' markets are California
36 agricultural product outlets that are registered under the provisions
37 of Section 47020 and operated in accordance with this chapter and
38 regulations adopted pursuant to this chapter.

39 (b) The operator of a certified farmers' market shall establish
40 a clearly defined marketing area where only agricultural products

1 may be sold. Only the producer or the lawful authorized
2 representative of the producer may sell agricultural products within
3 the area defined as a certified farmers' market. No sales of
4 agricultural products purchased from another individual or entity
5 shall occur within a certified farmers' market, and no agricultural
6 product producer or product dealer may sell his or her agricultural
7 products to another individual or entity with the understanding or
8 knowledge that the products are intended to be resold in a certified
9 farmers' market in violation of the provisions of this chapter or
10 the regulations adopted pursuant thereto. Every producer selling
11 within a certified farmers' market shall be registered with the state
12 as a direct marketing producer, and shall have submitted to the
13 state all documentation and paid all fees required by Section
14 47001.5.

15 (c) All vendors of agricultural products selling within a certified
16 farmers' market shall do all of the following:

17 (1) Post conspicuous signs or banners that state the name of the
18 farm or ranch, the city where the farm or ranch is located, the
19 county where the farm or ranch is located, and the direct marketing
20 producer's registration number.

21 (2) Post conspicuous signs or banners that state, "We Grew
22 What We Are Selling" or "We Raised What We Are Selling" or
23 "We Grow What We Sell" or similar phrases that shall represent
24 that the farm or ranch is only selling California agricultural
25 products that they themselves have grown or raised on California
26 land that they possess or control.

27 (3) Ensure that all processed agricultural products that they offer
28 for sale state in a clear manner by package label or container label
29 or bulk sales signage that they consist only, with the exception of
30 incidental flavorings and necessary preservatives, of California
31 agricultural products grown or raised by the farm or ranch selling
32 them, and the farm or ranch name and the city where the farm or
33 ranch is located. In addition, every processed product shall identify
34 on its package label or container label or on bulk sales signage the
35 registration number of the facility where the food was processed
36 in accordance with Section 110460 of the Health and Safety Code
37 or, in the case of meat products, the identity of the facility where
38 the meat products were cut and wrapped in accordance with the
39 United States Department of Agriculture or State of California
40 inspection standards or, in the case of dairy products, the identity

1 of the facility where the dairy products were manufactured or
2 processed.

3 (4) Ensure all products being represented or offered for sale as
4 organic are clearly labeled or have conspicuous and posted
5 point-of-sale signage identifying the products as organic.

6 (d) The representations required in subdivision (c) shall be
7 subject to the provisions and penalties specified in Section 890.

8 (e) An operator of a certified farmers' market that also operates,
9 manages, or otherwise controls a separate sales activity or vending
10 event or marketing area in close proximity, adjacent, or contiguous
11 to the operator's certified farmers' market, shall not allow the sale
12 or distribution of fresh whole produce by vendors selling within
13 the sales activity or vending event or marketing area, with the
14 exception of fresh whole produce considered tropical and not
15 generally grown in California.

16 (f) The operator of a certified farmers' market shall keep an
17 accurate participation record of the individual direct marketing
18 producers whose agricultural products were presented for sale in
19 their market each market day. The operators shall submit to the
20 department a quarterly report of the registration numbers and
21 participation frequency of the direct marketing producers whose
22 agricultural products were presented for sale in the operator's
23 market during that past quarter. The department shall create and
24 maintain online capability for reporting.

25 (g) Operators of certified farmers' markets may establish rules
26 and procedures that are more restrictive and stringent than state
27 laws or regulations governing or implementing this chapter, so
28 long as the rules and procedures are not in conflict with state laws
29 or regulations.

30 (h) Except for certified farmers' markets operated by
31 government agencies, nonprofit entities and other qualified
32 operators of certified farmers' markets shall be considered private
33 entities and may take actions, adopt rules, and impose requirements
34 they deem necessary for the proper and honest operation of their
35 market, subject to the application of any state or other laws.
36 Government agency operators of certified farmers markets are
37 subject to applicable state laws, the laws of their agency, and any
38 other laws governing the conduct and actions they may take as an
39 agency of government.

1 SEC. 11. Section 47004.1 of the Food and Agricultural Code
2 is repealed.

3 ~~47004.1. (a) Any certified producer aggrieved by a rule or~~
4 ~~procedure of a certified farmers' market may submit a written~~
5 ~~request to the department for an advisory opinion as to whether,~~
6 ~~as a question of law, the rule or procedure in dispute is consistent~~
7 ~~with this chapter and the regulations implementing this chapter.~~
8 ~~Not later than 15 calendar days after the date on which the written~~
9 ~~request is received, the department shall undertake its review and~~
10 ~~issue an advisory opinion. The request for and issuance of an~~
11 ~~advisory opinion is not a prerequisite to the pursuit of any civil~~
12 ~~litigation. However, the advisory opinion shall be given substantial~~
13 ~~weight in any subsequent civil or administrative proceeding~~
14 ~~involving the parties and subject matter of the advisory opinion.~~
15 ~~The department may adopt regulations providing for the precedent~~
16 ~~value of its advisory opinions issued pursuant to this section.~~
17 ~~Notwithstanding any other provision of law, the department shall~~
18 ~~not incur liability in connection with the preparation and issuance~~
19 ~~of any advisory opinion issued pursuant to this section.~~

20 ~~(b) The department shall provide for an informal hearing~~
21 ~~pursuant to Article 10 (commencing with Section 11445.10) of~~
22 ~~Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government~~
23 ~~Code, with regard to any grievance of a certified producer involving~~
24 ~~questions of fact concerning any action taken by a certified farmers'~~
25 ~~market against the producer, or any implementation of a rule or~~
26 ~~procedure established by certified farmers' market against the~~
27 ~~producer, or any other related issue, as to whether application of~~
28 ~~the rule or procedure in dispute is consistent with this chapter and~~
29 ~~the regulations implementing this chapter. The informal hearing~~
30 ~~shall proceed without the option of conversion to a formal hearing.~~
31 ~~The request for an informal hearing to resolve issues involving~~
32 ~~disputes of fact is not a prerequisite to the pursuit of any civil~~
33 ~~litigation.~~

34 ~~(c) In addition to, or in lieu of, the alternatives set forth in~~
35 ~~subdivisions (a) and (b), the parties may agree to employ mediation.~~
36 ~~If mediation fails to resolve the dispute, the parties may agree to~~
37 ~~employ binding arbitration. The department and the county~~
38 ~~agricultural commissioners shall incur no expense or liability for~~
39 ~~mediation or binding arbitration.~~

1 SEC. 12. Section 47010 of the Food and Agricultural Code is
2 amended to read:

3 47010. (a) The secretary ~~shall~~ *may* establish a committee ~~which~~
4 *that* shall be known as the Certified Farmers' Market Advisory
5 Committee. The primary goal of the committee shall be to ensure
6 the integrity of certified farmers' markets.

7 (b) The committee shall be composed of 17 members and their
8 alternates. The secretary shall appoint the members of the
9 committee from a list of nominees provided by the industry subject
10 to this chapter. The secretary shall appoint eight members and their
11 alternates who shall be active certified producers, four members
12 and their alternates who shall be certified farmers' market managers
13 or representatives, two representatives from different major state
14 direct marketing associations, one public member, and two
15 members and their alternates who shall be county agricultural
16 commissioners. An alternate member shall serve at a committee
17 meeting only in the absence of, and shall have the same powers
18 and duties as, the member for whom he or she is designated as
19 alternate.

20 (c) The secretary shall appoint only one certified producer,
21 certified farmers' market manager, or representative to represent
22 any one farm or certified farmers' market and shall make every
23 effort to ensure that there is a diverse representation from major
24 production and market areas.

25 (d) The committee shall meet at the request of the secretary, the
26 committee chairperson, or upon the request of four committee
27 members. It shall meet at least once each year.

28 (e) The committee shall appoint its own officers, including a
29 chairperson, a vice chairperson, a secretary, and any other officers
30 it deems necessary. The committee may adopt rules that it deems
31 are necessary for the conduct of its meetings and functions to carry
32 out the objectives of this chapter.

33 SEC. 13. Section 47011 of the Food and Agricultural Code is
34 amended to read:

35 47011. The committee shall be advisory to the secretary on all
36 matters pertaining to direct marketing of agricultural products at
37 certified farmers' markets and may make recommendations
38 including, but not limited to, the following:

39 (a) The amendment, repeal, or adoption of legislation and
40 regulations that relate to the administration and enforcement of

1 *the provision of this chapter pertaining to certified farmers’*
2 *markets.*

3 (b) Administrative policies and procedures that relate to the
4 inspection of certified producers and certified farmers’ markets.

5 (c) Administrative civil penalties for violations of ~~direct~~
6 ~~marketing~~ *certified farmers’ market* regulations.

7 (d) Certification fees collected pursuant to Section 47020.

8 (e) Statewide review of *certified farmers’ market* enforcement
9 actions.

10 (f) The annual budget of the department to carry out this chapter
11 and the assessment of fees to pay for the costs incurred by the
12 department to carry out *the provisions of this chapter relating to*
13 *farmers’ markets.*

14 (g) Alternative strategies for certification and investigation
15 methodology, and methods for industry self-regulation and
16 commission formation.

17 SEC. 14. Section 47014 is added to the Food and Agricultural
18 Code, to read:

19 47014. This article shall remain in effect only until January 1,
20 2015, and as of that date is repealed, unless a later enacted statute,
21 that is enacted before January 1, 2015, deletes or extends that date.

22 SEC. 15. Section 47020 of the Food and Agricultural Code is
23 repealed.

24 ~~47020. (a) A certified farmers’ market certificate issued by a~~
25 ~~county agricultural commissioner shall be valid for 12 months~~
26 ~~from the date of issue. The county agricultural commissioner shall~~
27 ~~inspect every certified farmers’ market within his or her jurisdiction~~
28 ~~at least once, in every six months of operation. The county~~
29 ~~agricultural commissioner may charge a certification and inspection~~
30 ~~fee up to a maximum rate of sixty dollars (\$60) per hour, unless~~
31 ~~the county board of supervisors elects not to charge inspection and~~
32 ~~certificate costs. Inspections shall be required notwithstanding a~~
33 ~~county board of supervisors’ election not to charge certificate and~~
34 ~~inspection fees. If a fee is charged for conducting the certification~~
35 ~~and inspection, it shall include either the itemized actual costs, or~~
36 ~~the weighted average hourly rate, as determined on an annual basis~~
37 ~~by the county, which shall be provided to the certified farmers’~~
38 ~~market manager prior to the payment of the fee.~~

39 (b) A certified producer’s certificate issued by a county
40 agricultural commissioner may be valid for up to 12 months from

1 the date of issue. The county agricultural commissioner in each
2 county shall perform at least one annual onsite inspection of the
3 property or properties listed on every certified producer's certificate
4 issued in their county to verify production of the commodities
5 listed on the certificate or the existence in storage of the harvested
6 production, or both. If the certificate is issued for a period of seven
7 months or more, the county agricultural commissioner in each
8 county shall perform at least one additional onsite inspection or
9 other equally appropriate measure to verify production or storage,
10 or both. The county agricultural commissioner may charge a
11 certificate and inspection fee up to a maximum rate of sixty dollars
12 (\$60) per hour, unless the county board of supervisors elects not
13 to charge inspection and certificate costs. Inspections shall be
14 required notwithstanding a county board of supervisors' election
15 not to charge certificate and inspection fees. If a fee is charged for
16 conducting the certification and inspection, it shall include either
17 the itemized actual costs, or the weighted average hourly rate, as
18 determined on an annual basis by the county, which shall be
19 provided to the producer prior to the payment of the fee.

20 (e) ~~Renewal of a certified farmers' market certificate or certified~~
21 ~~producer's certificate may be denied by either the department or~~
22 ~~a county agricultural commissioner if a certified farmers' market~~
23 ~~or a certified producer is delinquent in the payment of the required~~
24 ~~state fee or any county certification and inspection fee or~~
25 ~~administrative civil penalty authorized under this chapter. The~~
26 ~~certificate shall be eligible for renewal when all outstanding~~
27 ~~balances and associated penalties or administrative fines have been~~
28 ~~paid to the department or the respective county or counties.~~

29 SEC. 16. Section 47020 is added to the Food and Agricultural
30 Code, to read:

31 47020. (a) An operator of a certified farmers' market shall
32 annually register with the department the times and location of the
33 market, the name and contact information for the operator of the
34 market, and the agent for service of process for the operator. Upon
35 completion of a proper application, the agricultural commissioner
36 shall issue to the operator a certified farmers' market certificate.

37 (b) A certified farmers' market certificate issued by a county
38 agricultural commissioner shall be valid for 12 months from the
39 date of issue and may be renewed annually thereafter. The county
40 agricultural commissioner shall inspect every certified farmers'

1 market within his or her jurisdiction at least once in every six
2 months of operation. The county agricultural commissioner shall
3 provide an estimate of expenses for inspections at the time of
4 application or renewal and may charge a certification and
5 inspection fee reflecting or equal to the actual expenses incurred.

6 (c) (1) Any registered direct marketing producer wishing to
7 sell at a certified farmers' market shall apply and register with the
8 department and obtain a certified producer's certificate. All
9 certified producer certificates will be assigned one or more
10 permanent registration numbers representing the farm or ranch for
11 each county where the farm or ranch is located. These registration
12 numbers shall correspond with or incorporate numerically the
13 registered direct market producer numbers.

14 (2) In addition to business contact information for the producer,
15 the certificate shall also include the Global Positioning System
16 (GPS) convertible physical addresses and acreage for the locations
17 in each county where they produce or raise the agricultural product
18 they sell or intend to sell directly to the public, and the
19 GPS-convertible physical addresses of any off-farm locations
20 where the products are or will be stored before they are sold
21 directly to the public.

22 (3) Each certified producer farming fruit, vegetables, nuts, herbs,
23 and similar crops shall annually submit to the department pertinent
24 information about the specific crops that they will harvest or intend
25 to harvest for sales directly to the public.

26 (4) Each certified producer that sells or intends to sell any
27 processed agricultural product that they produced directly to the
28 public shall submit to the department a list of each facility where
29 their production was canned, dried, flavored, preserved, fermented,
30 juiced, or otherwise processed into the product that they intend to
31 sell to the public, and the registration number of each facility where
32 the food was processed in accordance with Section 110460 of the
33 Health and Safety Code.

34 (5) Each certified producer that raises animals for meat, cheese,
35 eggs, honey, or similar products for sale directly to the public shall
36 annually submit to the department pertinent general information
37 about the products produced for sale directly to the public. In the
38 case of meat products, the producer shall also list the facilities
39 where their products will be slaughtered, cut, and wrapped in
40 accordance with USDA or State of California inspection standards

1 in preparation for sale to the public. In the case of any dairy
2 product, the producer shall also list the facilities where their
3 product is manufactured and processed.

4 (6) All certified producers shall keep general records of
5 agricultural product sales directly to the end users and
6 memorandum records of product sales to parties intending to resell
7 or distribute the product to the public or end users under the
8 provisions of Section 47002 of this chapter.

9 (7) A certified producer's certificate issued by a county
10 agricultural commissioner shall be valid for up to 12 months from
11 the date of issue and may be renewed annually thereafter. The
12 county agricultural commissioner in each county shall perform at
13 least one onsite inspection for all new certified producer certificate
14 applicants and may perform additional inspections as needed of
15 the property or properties listed on those certified producers'
16 certificates issued in their county to verify production of the
17 commodities being sold at a certified farmers' market or the
18 existence in storage of the producers' actual harvested production,
19 or both, of any product being sold at a certified farmers' market.
20 Where practical or purposeful, verification inspections should be
21 made when the actual harvest or sale of the commodity in question
22 is occurring. The county agricultural commissioner shall furnish
23 the producer an estimate of expenses for certification or inspection
24 at the time of application or renewal or before any needed
25 additional verification inspection, and may charge a certification
26 and inspection fee reflecting or equal to the actual expenses
27 incurred.

28 (d) Renewal of a certified farmers' market certificate or certified
29 producer's certificate may be denied by either the department or
30 a county agricultural commissioner if a certified farmers' market
31 or a certified producer is delinquent in the payment of the required
32 state fee or any county certification and inspection fee or
33 administrative civil penalty authorized under this chapter. The
34 certificate shall be eligible for renewal when all outstanding
35 balances and associated penalties or administrative fines have been
36 paid to the department or the respective county or counties.

37 SEC. 17. Section 47020.5 is added to the Food and Agricultural
38 Code, to read:

39 47020.5. (a) Certified producer consignment sales agreements
40 are written contractual agreements whereby two California

1 registered direct marketing producers that are certified to sell at a
2 certified farmers' market may jointly sell to the public at a certified
3 farmers' market the agricultural products produced by both
4 producers who are parties to the agreement. The certified producer
5 consignment sales agreement shall be embodied in a written
6 document that details the terms of the agreement. Certified
7 producer consignment sales agreements may be prohibited by and
8 are otherwise subject to the rules and conditions of a certified
9 farmers' market operator. Certified producer consignment sales
10 agreements are valid for use only and exclusively within certified
11 farmers' markets operating under and in accordance with provisions
12 of this chapter. The provisions of Chapter 7 (commencing with
13 Section 56101) of Division 20 shall not apply to certified producer
14 consignment sales agreements.

15 (b) For purposes of this chapter, a consignment is an
16 arrangement resulting from a written agreement in which one
17 registered direct marketing producer, the consignor, entrusts his
18 or her agricultural products to another registered direct marketing
19 producer, the consignee, for sale at a certified farmers' market.
20 The consignee acts as an agent on behalf of the consignor, a
21 principal, in selling the products. All laws governing the
22 responsibilities and liabilities for an agent and principal relationship
23 shall apply. The consignor shall not give up ownership of the
24 products until their sale to the consumer or other end user. The
25 terms of the consignment contract shall be that the consignee agrees
26 to deliver to the consignor a balance of the proceeds received for
27 any goods sold that has been reduced by the consignee's fee and
28 expenses, the total of which shall not be more than 25 percent of
29 the sale proceeds returned to the consignor. Any goods that have
30 not been sold shall be returned to the consignor or disposed of in
31 a nonsales transaction manner dictated by the consignor.

32 (c) Agricultural products sold at a certified farmers' market
33 under the terms of a certified producer consignment sales
34 agreement are subject to the condition that the source of all
35 products at the point of sale be clearly identified to the public as
36 to the name, city, and county of the farm or ranch of the party that
37 produced the product. All the above source representations required
38 to be made to the public shall be subject to the provisions and
39 penalties of Section 890.

1 (d) A certified producer consignment sales agreement shall
2 annually or seasonally be registered with the department disclosing
3 the principal address and contact information for each party to the
4 agreement, a general description of the terms of the agreement,
5 and the list of the products to be sold under the terms of the
6 agreement. A registration fee of fifty dollars (\$50) shall be paid
7 at the time of each registration. No party or agent of a party to a
8 certified producer consignment sales agreement may sell at any
9 certified farmers' market without fulfilling this registration process.
10 Funds from fees collected shall be deposited in the Department of
11 Food and Agriculture Fund and shall be used by the department
12 for the administration of this section. Administration may include
13 creating and maintaining an online registration and data filing
14 system, any coordination expenses incurred relative to meetings
15 and actions of any domestic direct marketing advisory committee
16 established by the secretary, and for investigations and prosecution
17 proceedings of violations of this section pursuant to any properly
18 submitted complaint or pursuant to information received or detected
19 creating the necessity for the investigation.

20 SEC. 18. Section 47021 of the Food and Agricultural Code is
21 amended to read:

22 47021. (a) Every operator of a certified farmers' market shall
23 remit to the department, within 30 days after the end of each
24 quarter, a *program* fee equal to the number of ~~certified producer~~
25 ~~certificates and other agricultural producers product vendors~~
26 *participating and selling goods under the authority and*
27 *management of the certified farmers' market operator* on each
28 market day for the entire previous quarter. ~~The fee shall be~~
29 ~~established by January 1 of each year by the department upon the~~
30 ~~receipt of a budget recommendation from the advisory committee.~~
31 *The fee shall not exceed sixty be fifty cents (\$0.60) (\$0.50) for*
32 *each certified producer certificate and other individual agricultural*
33 *producers participating product vendor whose products were*
34 *presented for sale* on each market day. A certified farmers' market
35 *operator* may directly recover all or part of the fee from the
36 *participating certified and other agricultural producers product*
37 *vendors.*

38 (b) Any operator of a certified farmers' market who fails to pay
39 the required fee within 30 days after the end of the quarter in which
40 it is due, shall pay to the department a monthly interest charge on

1 the unpaid balance and a late penalty charge, to be determined by
2 the department and not to exceed the maximum amount permitted
3 by law.

4 (c) All fees collected pursuant to this section shall be deposited
5 in the Department of Food and Agriculture Fund. The money
6 generated by the imposition of the fees shall be used, upon
7 appropriation by the Legislature, by the department, to cover the
8 reasonable costs to carry out this chapter, including all of the
9 following actions undertaken by the department:

10 (1) The coordination of the *certified farmers' market* advisory
11 committee *or the domestic direct marketing advisory committee*.

12 (2) The evaluation of county enforcement actions and assistance
13 with regard to multiple county enforcement problems.

14 (3) The adoption of regulations to carry out *the provisions of*
15 *this chapter pertaining to certified farmers' markets*.

16 (4) ~~Hearing appeals~~ *Hearings* from actions taken by county
17 agricultural commissioners to enforce this chapter.

18 (5) ~~The review of rules or procedures established by a certified~~
19 ~~farmers' market and the issuance of advisory opinions and the~~
20 ~~provision of informal hearings pursuant to Section 47004.1 as to~~
21 ~~whether the rules or procedures are consistent with this chapter~~
22 ~~and implementing regulations.~~

23 (6)

24 (5) The maintenance of a current statewide listing of certified
25 farmers' markets ~~with schedules of operations and locations~~.

26 (7)

27 (6) The maintenance of a current statewide listing of certified
28 producers.

29 (8)

30 (7) The dissemination to all certified farmers' markets
31 information regarding the suspension or revocation of any
32 producer's certificate and the imposition of administrative
33 penalties.

34 (9)

35 (8) Other actions, including the maintenance of special fund
36 reserves, that are recommended by the *certified farmers' market*
37 *advisory committee or the domestic direct marketing advisory*
38 *committee* and approved by the department for the purpose of
39 carrying out *the provisions of* this chapter *pertaining to certified*
40 *farmers' markets*.

1 (d) This section shall remain in effect only until January 1, ~~2014,~~
2 2016, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, ~~2014,~~ 2016, deletes or extends
4 that date.

5 (e) *If this section is no longer in effect, any residual funds*
6 *collected and deposited pursuant to subdivision (c) shall be*
7 *transferred within the Department of Food and Agriculture Fund*
8 *and shall be used in accordance with the provisions of subdivision*
9 *(c).*

10 SEC. 19. Section 47021.5 is added to the Food and Agricultural
11 Code, to read:

12 47021.5. (a) Every operator of a certified farmers' market shall
13 remit to the department, within 30 days after the end of each
14 quarter, an investigation and enforcement fee based on the number
15 of individual agricultural product vendors whose products were
16 presented for sale on each market day for the entire previous
17 quarter. The fees shall annually be set on January 1 and shall be
18 based upon the number of certified farmers' market certificates
19 issued during the previous year in each county.

20 (b) For certified farmers' markets located in counties that issued
21 15 or fewer certified farmers' market certificates, the fee shall be
22 fifty cents (\$0.50) for each individual agricultural product vendor
23 whose products were presented for sale on each market day.

24 (c) For certified farmers' markets located in counties that issued
25 more than 15 but fewer than 40 certified farmers' market
26 certificates, the fee shall be one dollar (\$1) for each individual
27 agricultural product vendor whose products were presented for
28 sale on each market day.

29 (d) For certified farmers' markets located in counties that issued
30 40 or more certified farmers' market certificates, the fee shall be
31 one dollar and fifty cents (\$1.50) for each individual agricultural
32 product vendor whose products were presented for sale on each
33 market day.

34 (e) Any operator of a certified farmers' market who fails to pay
35 the required fee within 30 days after the end of the quarter in which
36 it is due, shall pay to the department a monthly interest charge on
37 the unpaid balance and a late penalty charge, to be determined by
38 the department and not to exceed the maximum amount permitted
39 by law.

1 (f) All fees collected pursuant to this section shall be deposited
 2 in the Department of Food and Agriculture Fund. The money
 3 generated by the imposition of the fees assessed under this section
 4 shall be used exclusively to pursue and conduct investigations and
 5 enforcement actions upon properly filed complaints or pursuant
 6 to information received or detected creating the necessity for the
 7 investigation of any violation of Section 890.

8 (g) (1) This section shall remain in effect only until January 1,
 9 2016, and as of that date is repealed, unless a later enacted statute,
 10 that is enacted before January 1, 2016, deletes or extends that date.

11 (2) If this section is no longer in effect or is repealed or is not
 12 extended by a later enacted statute that is enacted before January
 13 1, 2016, pursuant to paragraph (1), any residual funds collected
 14 and deposited pursuant to subdivision (d) above shall be transferred
 15 within the Department of Food and Agriculture Fund and used in
 16 accordance with the provisions of subdivision (c) of Section 47021.

17 SEC. 20. Section 47055 is added to the Food and Agricultural
 18 Code, to read:

19 47055. (a) A direct marketing producer association is a
 20 membership association in which three or more California
 21 producers may jointly, in a cooperative, labor-sharing and
 22 cost-sharing manner, sell to the public the agricultural products
 23 produced by its members. A direct marketing producer association
 24 shall be organized and documented as an unincorporated
 25 association, a limited liability company, or a corporation whose
 26 owner members are composed of agricultural producer who are
 27 registered with the state as direct marketing producers, and have
 28 submitted to the state any documentation and paid all fees required
 29 by this chapter.

30 (b) On behalf of its members, a direct marketing producer
 31 association may sell the agricultural products produced by the
 32 members to the public. The source of those products shall be clearly
 33 identified to the public, customer, or subscriber as to the name,
 34 city, and county of the farm or ranch of the member that produced
 35 the product. All of the representations required to be made to the
 36 public shall be subject to the provisions and penalties specified in
 37 Section 890.

38 (c) Subject to Section 47002, any exemption under any existing
 39 law that applies to an agricultural product in the possession, or
 40 under the control, of the individual direct marketing producer

1 members shall apply to the product that is delivered by the producer
2 members to the direct marketing producer association and
3 subsequently distributed, transported, offered for sale, sold, or
4 otherwise possessed on behalf of its producer members. For
5 purposes of this chapter, a direct marketing producer association
6 shall be considered a single marketing entity and its agents shall
7 be treated in the same manner as lawful agents of the membership.

8 (d) A direct marketing producer association shall annually
9 register with the department the principal address and contact
10 information for the association, and the contact information for its
11 agent for service of process. An annual registration fee of one
12 hundred dollars (\$100) shall be paid at the time of registration. A
13 direct marketing producer association shall not operate under the
14 provisions of this chapter without fulfilling the annual registration
15 process. Funds from the fees collected shall be deposited in the
16 Department of Food and Agriculture Fund and shall be used by
17 the department for the administration of this section.
18 Administration may include creating and maintaining an online
19 registration and data filing system, coordination expenses incurred
20 relative to meetings and actions of the domestic direct marketing
21 advisory committee, and investigations pursuant to any properly
22 submitted complaint or pursuant to information received or detected
23 creating the necessity for the investigation.

24 (e) A direct marketing producer association, when operating an
25 agricultural products outlet on behalf of its members at a location
26 permitted by local ordinances and in accordance with this section,
27 shall be considered a certified farmers' market for permitting and
28 enforcement purposes under the applicable provisions of the Health
29 and Safety Code.

30 (f) A direct marketing producer association when operating a
31 community-supported agriculture (CSA) sales and delivery
32 business on behalf of its members in accordance with this chapter,
33 shall be considered and defined as a CSA for permitting and
34 enforcement purposes under the applicable provisions of this
35 chapter and any applicable provisions of the Health and Safety
36 Code.

37 SEC. 21. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution for certain
39 costs that may be incurred by a local agency or school district
40 because, in that regard, this act creates a new crime or infraction,

1 eliminates a crime or infraction, or changes the penalty for a crime
2 or infraction, within the meaning of Section 17556 of the
3 Government Code, or changes the definition of a crime within the
4 meaning of Section 6 of Article XIII B of the California
5 Constitution.

6 However, if the Commission on State Mandates determines that
7 this act contains other costs mandated by the state, reimbursement
8 to local agencies and school districts for those costs shall be made
9 pursuant to Part 7 (commencing with Section 17500) of Division
10 4 of Title 2 of the Government Code.

O